

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAVID KRAMER, Individually, and as the)
President and Sole Owner of CERTIFIED)
CAR SALES, LLC, a Missouri Limited)
Liability Company,)
Plaintiffs,)
v.) Case No. 08 CV 2530
)
SHERIFF'S DEPUTY STEVEN STELTER;) Honorable Ruben Castillo
Individually and as a Deputy of the) District Judge
DuPage County Sheriff's Office; et al)
) Honorable Arlander Keys
Defendants.) Magistrate Judge

PLAINTIFF'S MOTION TO RESCHEDULE

NOW COMES the Plaintiffs, DAVID KRAMER, Individually, and as the Sole Owner of CERTIFIED CAR SALES, LLC, by and through their attorney, STEPHEN M. KOMIE of KOMIE AND ASSOCIATES, and move this Honorable Court to reschedule. In support therefore states as follows:

1. That on July 22, 2008, the parties appeared before the Court. On that day the Court entered an order directing Plaintiffs to answer the Motion to Dismiss only addressing the issue of *res judicata*.
2. That prior to the case being called, the Court asked an attorney in another case on the motion call whether or not counsel wanted to defend the Complaint on file or wished an opportunity to amend it. However, the Court did not ask the same question of Plaintiffs' counsel.

3. That if Plaintiffs' counsel had been asked if there was a desire to defend the Complaint before the Court, counsel would have answered he would have preferred to amend the Complaint to correct any deficiencies. This is true because the Honorable Arlander Keys, Magistrate, dismissed without prejudice Plaintiffs' prior case. Plaintiffs' Complaint at bench avers the seizure of automobile titles by law enforcement officers, who handed them to Defendants, who then forge Plaintiffs' signatures to transfer the automobiles to innocent purchasers. Then some defendants pocket the proceeds of the sale. These allegations were not contained within the Complaint dismissed without prejudice by Judge Keys. Counsel for the Plaintiffs wants to avoid any injury to his clients so his clients may have their day in court on the ultimate questions of fact and law involved in this case.
4. That the previous case was dismissed without prejudice; therefore, counsel respectfully prays this Court to reschedule the hearing on the Motion to Amend the Complaint, and allow counsel to amend the Complaint to a Complaint which counsel would prefer to defend.
5. That in the alternative, the Court has set Plaintiffs' Answer to Defendants' Motion to Dismiss on the issue of *res judicata* for August 19, 2008 with Defendants' Replies due on September 9, 2008. Subsequent to the Court entering that order, Defendant Creedon moved for an extension of time to answer the Complaint. The Court granted that motion on August 1, 2008. The Court gave Defendant Creedon time to plead beyond the date set for Plaintiffs to answer the issues raised in the motion to dismiss on the question of *res*

judicata.

6. That in the interest of judicial economy, conservation of time, and reduction of costs of litigation, Plaintiffs respectfully request the Court reset the schedule after all Defendants have appeared and pled to the Complaint so this matter is only visited once.

WHEREFORE, for the foregoing reasons, the Plaintiffs, DAVID KRAMER and CERTIFIED CAR SALES, LLC, respectfully pray for the following relief:

- A. That the Court reschedules Plaintiffs' Motion to Amend the Complaint;
- B. That in the alternative the Court suspends the briefing schedule until all parties have appeared and pled so this matter may only be visited once.

Respectfully submitted,

DAVID KRAMER, individually and
As President and Sole Owner of
CERTIFIED CAR SALES, LLC, Plaintiffs
By and through his attorneys
KOMIE AND ASSOCIATES

By: /s/ Stephen M. Komie
Attorney for Plaintiffs

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